

Summary of Testimony of
Tom Baker
President, Electric Service Division
Texas Utilities Electric Company
before the
House Commerce Subcommittee on Energy & Power
Dallas, Texas
May 9, 1997

- ☆ TU Electric has played a significant role in the effort to keep electricity prices in Texas 13% below the national average. Combined with low rates, TU Electric's economic development efforts have supported record job growth in Texas.
- ☆ Texas is the first state to establish and implement an Independent System Operator to insure that reliability is maintained and the wholesale market functions effectively. These wholesale market changes will continue to place downward pressure on electricity prices.
- ☆ TU Electric supports competition if all customers benefit economically, reliability is maintained, past commitments to utility investors are honored, and states are allowed to choose the best course of transition for them.
- ☆ It is not necessary for Congress to enact legislation regarding retail competition at this time. States are in the best position to develop restructuring plans based on the local needs and concerns of electricity users in their state. A federal mandate would ignore the valuable and diverse experience many states have accumulated in addressing the issue of retail competition.

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Chairman Schaefer and members of the subcommittee, my name is Tom Baker, and I am President the Electric Service Division of TU Electric Company. I appreciate the opportunity to discuss TU Electric's position on electric industry restructuring with you today.

TU Electric serves six million people in the northern third of Texas in 91 counties and 372 incorporated cities. We are the largest supplier of electricity in Texas, and the largest investor-owned electric utility in the United States. For nearly 100 years, TU Electric and its predecessor companies have been dedicated to the well being of the Texas communities we serve. Together with the people we serve, we live, work, and raise our families here in Texas.

In compliance with Rule XI, clause 2(g)(4) of the Rules of the House and Rule 4(b)(2) of the Committee rules, I disclose that TU Electric provides, pursuant to franchise obligations and under an Areawide Utilities Contract

with the U.S. General Services Administration or other agreements, electrical service to federal facilities such as military installations, federal courthouses, U.S. Postal Service buildings, Social Security Administration, Internal Revenue Service and other federal service and operation functions. The amount received by TU Electric for such electrical service is based on applicable tariffs approved by the Public Utility Commission of Texas.

TU Electric does not oppose competition. We support competition if all customers benefit economically, reliability is maintained, past commitments to utility investors are honored, and states are allowed to choose the best course of transition for them.

It makes little sense to abandon a system which works better than any other system in the world until assurances on these points can be secured.

Electric utilities in Texas, combined with reasonable regulation, have kept electricity prices low. Texas electric rates are 13% below the national average and are declining.

Below-average electricity prices have supported economic growth in Texas. Over the past five years, Texas has led the nation in net nonfarm job growth. Over one million jobs were created in Texas over the past five years, whereas many states with higher electric rates have seen a net job loss. TU Electric has worked hard to contribute to that job growth by aggressively supporting economic development in the communities we serve. Through our dedication to the community and interest in the economic growth of our region, we have produced one of the premier economic development programs in the country. As a result, *Site Selection Magazine* in four of the last seven years has named TU Electric among the top ten economic development organizations in the nation.

As any additional, significant change in public policy is considered, there are three very basic principles that should be recognized and honored: 1) all customers should benefit economically; 2) reliability of electric service must be maintained; and 3) utility investors must be treated fairly.

All customers should benefit economically. One of the most troubling issues in the electric restructuring debate is cost shifting. In the context of

the federal debate, cost shifting could take place through electric restructuring on several levels: 1) between customers (or customer classes); 2) between customers and shareholders; and 3) between states. Unless electric restructuring is done thoughtfully, in an orderly fashion, and the transition time is adequate, customers, especially small customers, could end up paying higher electricity costs while subsidizing large customers. Also, low-cost states may see electricity prices rise and jobs move out of state as low-cost power is exported to higher-cost states.

Potential stranded costs is probably the most critical and complex issue to be resolved as electric industry restructuring is considered. Most participants in the restructuring debate seem to agree that recovery of stranded costs is appropriate. If there is to be a change in public policy that has been in place for more than 80 years, then the costs of the change (which presumably will be beneficial) must be dealt with equitably. Unless stranded costs are fully recovered, some customers and investors will be treated unfairly and some companies may be needlessly forced into bankruptcy.

In 1996 TU Electric paid more than \$650 million in state and local taxes, making the Company one of the largest taxpayers in the state. The current tax system is extremely complex, with investor-owned utilities paying additional taxes in Texas and the cities that we serve that other business entities do not pay. Any move to restructure the electric industry must take into consideration that state and local tax structures will also have to be studied and changed equitably.

Reliability of electric service must be maintained. The current electric system was not designed for retail competition. We must take the time necessary to figure out how we will maintain system reliability in a competitive retail market before we move forward.

Utility investors must be treated fairly. The electric industry is extremely capital intensive. The electric industry requires far more capital investment by outside investors than most other industries. This heavy reliance on investors cannot be accomplished without paying a sufficient return to these investors, many of whom are retirees. Any restructuring proposal must protect the interests of these people who have invested their savings

in an industry that was traditionally considered a safe and secure investment. Changing the rules in the middle of the game would be unfair to these investors, unless we do it right.

It is not necessary for Congress to enact legislation regarding retail competition at this time. Congress enacted the Energy Policy Act in 1992 allowing more wholesale market access under the jurisdiction of the Federal Energy Regulatory Commission (FERC). Traditionally, retail electric regulation has been a matter of state action. It is not necessary for Congress to preempt state action in an area which has traditionally been regulated by the states.

States are in the best position to develop restructuring plans based on the local needs and concerns of electricity users in their state. Each state has a unique mix of large and small customers. Each state also has unique social situations such as concentrations of fixed or low income customers. Many public policies that closely relate to electricity regulation are often closely related to the unique local needs and demands of each state.

Some may argue that it would take individual states too long to implement retail competition. But there are good reasons for a measured approach. It is beneficial to all states to learn from those who have already decided that retail competition is necessary. Some states have not yet determined that retail competition is in their best interests at this time.

Electric industry restructuring is not new to Texas. In the last Legislative session in 1995, Texas restructured the wholesale electricity market, opening that market to greater competition. Since that time, Texas is the first state to establish and implement an Independent System Operator to insure that reliability is maintained and the wholesale market functions effectively. These market changes will continue to place downward pressure on electricity prices.

There are good reasons for resisting the temptation to impose a federal mandate. They include:

1. Texas and other states have just adopted a more competitive wholesale market. The transition to wholesale competition is still taking place, and its full benefits have not yet been realized. And although Texas has not adopted retail competition, the Texas Legislature is currently considering proposals which could do so. As a matter of fact, this week Governor Bush and a

number of legislative leaders announced support for state legislation for customer choice in Texas on September 1, 2001.

TU Electric supports the proposal, as filed, in principle because it will benefit all customers, ensure reliability, honor past commitments to investors and provide for an orderly and reasonable transition to competition. The proposal has transitional provisions that only relate to specific situations that exist in Texas.

- 2. States are in the best position to develop restructuring plans based on the local needs and concerns of electricity users in their state. Additionally, public policies that closely relate to electricity regulation such as state environmental regulations and universal service requirements, are often closely related to the unique local needs and demands of each state.**
- 3. States can learn from others who have already decided that retail competition is in their best interest.**

Some states have already spent a great deal of time and energy on this issue. Texas is one of them. A federal mandate would ignore the valuable and diverse experience these states have accumulated over the years. Instead of imposing a universal plan for retail competition nationwide, it would behoove Congress to leverage the opportunity and the know-how of states by letting them determine their own fate.

At some point in the future, federal action may be necessary. If federal action is necessary, Congress can assist the process by clarifying

boundaries between federal and state jurisdiction over retail transmission and distribution. But at this time, Congress should avoid rushing to judgment on these critical and complex matters. Let states decide what is best for them.

If we are to move forward with retail competition, we need to make sure that it is fair to all customers. Reliability must be maintained. And the investors who built the present system -- the best system in the world -- deserve to be treated fairly. We trust that Congress will recognize and appreciate the unique situations that the states are in, and will defer to the judgment of the states in implementation of retail competition.

Again, I want to thank you for the opportunity to appear before you today. I commend you on the process of fact-finding that you have begun by holding these hearings. We urge you to continue the process of gathering the facts on this complex, but important issue. TU Electric stands ready and willing to work with you to help in the process. I'll be glad to answer any questions you may have.